

AMENDED IN ASSEMBLY APRIL 10, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

## ASSEMBLY BILL

**No. 2451**

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**Introduced by Assembly Member Daly**

February 21, 2014

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An act to amend ~~Sections 12240 and~~ *Section* 12531 of, and to add Sections ~~12210.7 and 12506.5~~ *12210.3, 12210.7, and 12518* to, the Business and Professions Code, relating to weights and measures.

### LEGISLATIVE COUNSEL'S DIGEST

AB 2451, as amended, Daly. Weights and measures: water submeters.

(1) Existing law requires the sealer of a county to inspect and test weighing and measuring devices, as specified, that are used or sold for commercial purposes in the county. Existing law, until January 1, 2016, authorizes the county board of supervisors to charge fees to recover the costs of the county sealer to perform these duties. For marinas, mobilehome parks, recreational vehicle parks, and apartment complexes, where the owner is responsible for the utility meters, existing law prohibits the device fee for water submeters from exceeding \$2 per device per space or apartment. ~~Existing law prohibits a person from engaging in business as a service agency unless registered by the Secretary of Food and Agriculture, as specified. Existing law defines “service agency” to mean any person that repairs a commercial device, designed to be used for determining weight or measure.~~

~~This bill would require a county sealer, upon written request of a service agent, to test and certify the accuracy of a water submeter within the county in which the county sealer operates. The bill would authorize a water submeter certified to be accurate to be used in any county in the state. The bill would require a sealer in any county to accept for~~

~~installation a water submeter in working order that is certified to be accurate. The bill would authorize the board of supervisors, until January 1, 2016, to charge fees to cover the cost of the county sealer of performing these services. By imposing additional duties on county sealers, this bill would impose a state-mandated local program.~~

*This bill would require a county sealer who possesses the appropriate equipment to perform tests on water submeters to inspect, calibrate, test, and certify the accuracy of a water submeter, upon request of the owner, user, or operator of the water submeter, if specified conditions exist. By placing additional duties on local officials, this bill would impose a state-mandated local program. The bill would permit the board of supervisors of the county to authorize the sealer to establish a schedule of fees to cover the costs of performing those services, not to exceed the amount of the device fee for water submeters.*

*This bill would authorize, upon written request of the owner, user, or operator, a water submeter that has been inspected, tested, and sealed by a sealer in one county to be installed in another county if certain conditions are met, including that the sealer of the county in which the water submeter is to be installed does not have reason to believe that the water submeter has been tampered with, damaged, or otherwise rendered inoperable since its inspection, testing, and sealing.*

(2) Existing law requires a sealer to seize and condemn, and authorizes the sealer to destroy, incorrect weights and measures and weighing and measuring instruments used for commercial purposes which are not susceptible of repair. Existing law requires a sealer to mark incorrect devices, which are susceptible of repair, with a tag or other device with the words "Out of order." For these purposes, existing law defines "incorrect" as any instrument which fails to meet prescribed tolerances and specifications and other technical requirements for commercial weighing and measuring.

~~This bill would instead require a sealer to return an incorrect water submeter, which is not susceptible of repair, to the appropriate service agent, and to mark the water submeter with a tag or other device with the words "Out of order." By placing additional duties on county sealers, this bill would impose a state-mandated local program. The bill would prohibit such a water meter from being placed in service in the state. Because the bill would impose additional duties on county sealers and because a violation of this provision would be a crime, this bill would impose a state-mandated local program.~~ *require a water submeter that has been tested and found to be incorrect to be marked with the words,*

*“Out of order” and to be returned to a service agent only if certain conditions are met. Because the bill would impose additional duties on county sealers and because a violation of this provision would be a crime, this bill would impose a state-mandated local program.*

(3) Existing law regulates the utilization and repair of weighing or measuring devices. Under existing law, for purposes of weighing and measuring devices, the term “placed in service” means to permit the use of a device that has been tested and found to be correct, as specified, and type approved, as provided, or to submit a device to a sealer for verification prior to installation. Under existing law, a device may only be placed in service by a sealer or a service agency.

This bill would limit the term “placed in service” to mean to permit the use of a device that has been tested and found to be correct, as specified, and type approved, as provided.

(4) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for specified reasons.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1     ~~SECTION 1. Section 12210.7 is added to the Business and~~  
2     ~~Professions Code, to read:~~  
3     ~~12210.7. (a) A sealer shall, upon the written request of a~~  
4     ~~service agent, as defined in Section 12531, test and certify the~~  
5     ~~accuracy of a water submeter within the county in which the sealer~~  
6     ~~operates.~~  
7     ~~(b) (1) Notwithstanding any other law, a water submeter~~  
8     ~~certified to be accurate pursuant to subdivision (a) may be used in~~  
9     ~~any county in the state.~~  
10    ~~(2) A sealer in any county shall accept for installation a water~~  
11    ~~submeter in working order that was certified pursuant to~~  
12    ~~subdivision (a).~~

1 ~~SEC. 2. Section 12240 of the Business and Professions Code is~~  
2 ~~amended to read:~~

3 ~~12240. (a) Except as otherwise provided in this section, the~~  
4 ~~board of supervisors, by ordinance, may charge an annual~~  
5 ~~registration fee, not to exceed the county's total cost of actually~~  
6 ~~inspecting or testing the devices as required by law, to recover the~~  
7 ~~costs of inspecting or testing weighing and measuring devices~~  
8 ~~required of the county scaler pursuant to Sections 12210 and~~  
9 ~~12210.7, and to recover the cost of carrying out Section 12211.~~

10 ~~(b) Except as otherwise provided in this section, the annual~~  
11 ~~registration fee shall not exceed the amount set forth in subdivisions~~  
12 ~~(f) to (r), inclusive.~~

13 ~~(c) The county may collect the fees biennially, in which case~~  
14 ~~they shall not exceed twice the amount of an annual registration~~  
15 ~~fee. The ordinance shall be adopted pursuant to Article 7~~  
16 ~~(commencing with Section 25120) of Chapter 1 of Part 2 of~~  
17 ~~Division 2 of Title 3 of the Government Code.~~

18 ~~(d) Retail gasoline pump meters, for which the above fees are~~  
19 ~~assessed, shall be inspected as frequently as required by regulation,~~  
20 ~~but not less than once every two years.~~

21 ~~(e) Livestock scales, animal scales, and scales used primarily~~  
22 ~~for weighing feed and seed, for which the above fees are assessed,~~  
23 ~~shall be inspected as frequently as required by regulation.~~

24 ~~(f) For purposes of this section, the annual registration fee for~~  
25 ~~a business that uses a commercial weighing or measuring device~~  
26 ~~or devices shall consist of a business location fee, a Department~~  
27 ~~of Food and Agriculture administrative fee, as specified in Section~~  
28 ~~12241, and a device fee, as specified in subdivisions (g) to (r),~~  
29 ~~inclusive. The business location fee and device fee shall not exceed~~  
30 ~~one hundred dollars (\$100) per business location, plus 100 percent~~  
31 ~~of the maximum applicable device fee listed in subdivisions (g)~~  
32 ~~to (r), inclusive.~~

33 ~~(g) (1) For marinas, mobilehome parks, recreational vehicle~~  
34 ~~parks, and apartment complexes, where the owner of the marina,~~  
35 ~~park, or complex owns and is responsible for the utility meters,~~  
36 ~~the device fee shall not exceed the following:~~

37 ~~(A) For water submeters, two dollars (\$2) per device per space~~  
38 ~~or apartment.~~

39 ~~(B) For electric submeters, three dollars (\$3) per device per~~  
40 ~~space or apartment.~~

1     ~~(C) For vapor submeters, four dollars (\$4) per device per space~~  
2     ~~or apartment.~~

3     ~~(2) Marinas, mobilehome parks, recreational vehicle parks, and~~  
4     ~~apartment complexes for which the above fees are assessed shall~~  
5     ~~be inspected and tested as frequently as required by regulation.~~

6     ~~(h) For weighing devices, other than livestock, with capacities~~  
7     ~~of 10,000 pounds or greater, the device fee shall not exceed two~~  
8     ~~hundred fifty dollars (\$250) per device; for weighing devices, other~~  
9     ~~than livestock scales, with capacities of at least 2,000 pounds but~~  
10    ~~less than 10,000 pounds, the device fee shall not exceed one~~  
11    ~~hundred fifty dollars (\$150) per device.~~

12    ~~(i) This section does not apply to farm milk tanks.~~

13    ~~(j) A scale or device used in a certified farmers' market, as~~  
14    ~~defined by Section 113742 of the Health and Safety Code, is not~~  
15    ~~required to be registered in the county where the market is~~  
16    ~~conducted, if the scale or device has an unexpired seal for the~~  
17    ~~current year, issued by a licensed California county sealer.~~

18    ~~(k) For livestock scales with capacities of 10,000 pounds or~~  
19    ~~greater, the device fee shall not exceed one hundred fifty dollars~~  
20    ~~(\$150) per device; for livestock scales with capacities of at least~~  
21    ~~2,000 pounds but less than 10,000 pounds, the device fee shall not~~  
22    ~~exceed one hundred dollars (\$100) per device.~~

23    ~~(l) For liquefied petroleum gas (LPG) meters, truck mounted~~  
24    ~~or stationary, the device fee shall not exceed one hundred~~  
25    ~~eighty-five dollars (\$185) per device.~~

26    ~~(m) For wholesale and vehicle meters, the device fee shall not~~  
27    ~~exceed seventy-five dollars (\$75) per device.~~

28    ~~(n) For computing scales, the device fee shall not exceed twenty~~  
29    ~~dollars (\$20) per device. For purposes of this subdivision, a~~  
30    ~~computing scale shall be a weighing device with a capacity of less~~  
31    ~~than 100 pounds that indicates the money value of any commodity~~  
32    ~~weighed, at predetermined unit prices, throughout all or part of~~  
33    ~~the weighing range of the scale. For the purposes of this~~  
34    ~~subdivision, the portion of the annual registration fee consisting~~  
35    ~~of the business location fee and the device fees authorized by this~~  
36    ~~subdivision shall not exceed the sum of one thousand dollars~~  
37    ~~(\$1,000) for each business location.~~

38    ~~(o) For jewelry and prescription scales, the device fee shall not~~  
39    ~~exceed eighty dollars (\$80) per device. For purposes of this~~  
40    ~~subdivision, a jewelry or prescription scale shall be a scale that~~

1 meets the specifications, tolerances, and sensitivity requirements  
2 established or adopted by the secretary applicable to those devices  
3 in accordance with Section 12107.

4 (p) For weighing devices, other than computing, jewelry, and  
5 prescription scales as defined in subdivisions (n) and (o), with  
6 capacities of at least 100 pounds but less than 2,000 pounds, the  
7 device fee shall not exceed fifty dollars (\$50) per device.

8 (q) For vehicle odometers utilized to charge mileage usage fees  
9 in vehicle rental transactions or in computing other charges for  
10 service, including, but not limited to, ambulance, towing, or  
11 limousine services, the device fee shall not exceed sixty dollars  
12 (\$60) per device.

13 (r) This section does not apply to odometers in rental passenger  
14 vehicles, as defined in Section 465 of the Vehicle Code, that are  
15 subject to Section 1936 of the Civil Code. If a person files a  
16 complaint with the county sealer regarding the accuracy of a rental  
17 passenger vehicle odometer, the county sealer may charge a fee  
18 to the operator of the vehicle rental business sufficient to recover,  
19 but not to exceed, the reasonable cost of testing the device in  
20 investigation of the complaint.

21 (s) For vehicle odometers utilized to charge mileage usage fees  
22 in vehicle rental transactions involving nonpassenger vehicles that  
23 are not subject to Section 1936 of the Civil Code, the portion of  
24 the annual registration fee consisting of the business location fee  
25 and the device fee authorized pursuant to subdivision (q) shall not  
26 exceed the sum of three hundred forty dollars (\$340) for each  
27 business location.

28 (t) For all other commercial weighing or measuring devices not  
29 listed in subdivisions (g) to (r), inclusive, the device fee shall not  
30 exceed twenty dollars (\$20) per device. For the purposes of this  
31 subdivision, the total portion of the annual registration fee  
32 consisting of the business location fee and the device fees  
33 authorized by this subdivision shall not exceed the sum of one  
34 thousand dollars (\$1,000), for each business location.

35 (u) For the purposes of this section, a single business location  
36 is defined as:

37 (1) Each business location that uses one or more categories or  
38 types of commercial devices as set forth in subdivisions (g) to (p),  
39 inclusive, and in subdivision (t), that require the use of specialized

1 ~~testing equipment and that necessitates not more than one~~  
2 ~~inspection trip by a weights and measures official.~~

3 ~~(2) Each vehicle, except for those vehicles that are employed~~  
4 ~~in vehicle rental transactions, in which one or more commercial~~  
5 ~~devices is installed and used.~~

6 ~~(3) (A) For vehicles that are employed in vehicle rental~~  
7 ~~transactions and that are not subject to Section 1936 of the Civil~~  
8 ~~Code, each business location at which vehicles are stored or~~  
9 ~~maintained by a vehicle rental company for the purposes of renting~~  
10 ~~vehicles to customers.~~

11 ~~(B) A facility that meets all of the following criteria shall not~~  
12 ~~be considered a business location for the purposes of this~~  
13 ~~paragraph:~~

14 ~~(i) The facility is not wholly, or in any part, owned, leased, or~~  
15 ~~operated by the vehicle rental company.~~

16 ~~(ii) The facility is not operated or staffed by an employee of the~~  
17 ~~vehicle rental company.~~

18 ~~(iii) The facility stores or maintains, on a temporary basis,~~  
19 ~~vehicles at the location for customer convenience.~~

20 ~~(C) If a person files a complaint with the county sealer regarding~~  
21 ~~the accuracy of an odometer in a vehicle found or located at a~~  
22 ~~facility described in subparagraph (B), the county sealer may~~  
23 ~~charge a fee to the operator of the vehicle rental company sufficient~~  
24 ~~to recover, but not to exceed, the reasonable cost of testing the~~  
25 ~~device in investigation of the complaint.~~

26 ~~SEC. 3. Section 12506.5 is added to the Business and~~  
27 ~~Professions Code, to read:~~

28 ~~12506.5. Notwithstanding any other law, a sealer shall return~~  
29 ~~an incorrect water submeter, which in his or her judgment is not~~  
30 ~~susceptible of repair, to the appropriate service agent and shall~~  
31 ~~mark the water submeter with a tag or other suitable device with~~  
32 ~~the words "Out of order." An incorrect water submeter returned~~  
33 ~~to a service agent pursuant to this section shall not be placed in~~  
34 ~~service in this state.~~

35 ~~SECTION 1. Section 12210.3 is added to the Business and~~  
36 ~~Professions Code, to read:~~

37 ~~12210.3. (a) A county sealer who possesses the appropriate~~  
38 ~~equipment to perform tests on water submeters shall inspect,~~  
39 ~~calibrate, test, and certify to the accuracy of a water submeter,~~  
40 ~~within his or her county and upon written request of the owner,~~

1 user, or operator of the water submeter, if any of the following  
2 circumstances exist:

3 (1) The service is requested to be performed in addition to, or  
4 according to a schedule different from, any inspection frequency  
5 established by regulations adopted pursuant to Section 12212.

6 (2) The requested service pertains to a water submeter not  
7 intended to be placed into service in the county within six months.

8 (3) The requested service pertains to a water submeter intended  
9 to be placed into service in a different county.

10 (b) Notwithstanding Section 12210.5, the board of supervisors  
11 may authorize the sealer to establish, from time to time, a schedule  
12 of fees to cover the cost of services provided under subdivision (a)  
13 and to charge and collect the fees. The fee schedule shall be limited  
14 to the actual cost of performing those services and shall not exceed  
15 the amount specified for water submeters in Section 12240.

16 SEC. 2. Section 12210.7 is added to the Business and  
17 Professions Code, to read:

18 12210.7. A county sealer shall, within his or her county and  
19 upon written request of the owner, user, or operator of the water  
20 submeter, authorize the installation of a water submeter that has  
21 been inspected, tested, and sealed by the county sealer of another  
22 county if all of the following conditions are met:

23 (a) The meter bears a seal that represents the most recent seal  
24 of the county in which the water submeter was inspected, in  
25 accordance with the provisions of Section 12505.

26 (b) The water submeter is installed no later than 12 months  
27 after the water submeter was inspected, tested, and sealed.

28 (c) The county sealer does not have reason to believe the water  
29 submeter has been tampered with, damaged, or otherwise rendered  
30 inoperable since the inspection, testing, and sealing by the other  
31 county sealer.

32 SEC. 3. Section 12518 is added to the Business and Professions  
33 Code, to read:

34 12518. A water submeter submitted to a sealer by an owner,  
35 user, or operator for inspection and testing before its initial  
36 installation that is found to be incorrect, as defined in Section  
37 12500, shall be marked with the words, "Out of Order," in  
38 accordance with Section 12506, and shall be returned to a service  
39 agent only if both of the following conditions are met:



1     (a) *The water submeter has no signs of intentional tampering*  
2     *by which to facilitate fraud.*

3     (b) *The water submeter shall not be placed into service in*  
4     *California.*

5     SEC. 4. Section 12531 of the Business and Professions Code  
6     is amended to read:

7     12531. As used in this chapter, the following definitions are  
8     applicable:

9     (a) “Service agency” means ~~any~~ a person, as defined in Section  
10    12011, that for hire, award, commission, or any other payment of  
11    any kind, repairs a commercial device.

12    (b) “Service agent” means ~~any~~ a person employed by a service  
13    agency to repair a commercial device.

14    (c) “Device” means ~~any~~ a weighing or measuring equipment,  
15    contrivance, or instrument used, or designed to be used, for  
16    determining weight or measure, and includes any tool, appliance,  
17    or accessory used in connection therewith, that is used for  
18    commercial ~~purposes~~ *purposes*, as defined in subdivision (e) of  
19    Section 12500.

20    (d) “Placed in service” means to permit the use of a device that  
21    has been tested and found to be correct, as defined in subdivision  
22    (c) of Section 12500, and type approved, as provided for in Section  
23    12500.5.

24    (e) “Correct” means ~~any~~ a device that meets all of the tolerance  
25    and specification requirements of Section 12107.

26    (f) “Repair,” in any of its variant forms, means to provide  
27    maintenance, or to install, adjust, recondition, or service a device.

28    SEC. 5. No reimbursement is required by this act pursuant to  
29    Section 6 of Article XIII B of the California Constitution for certain  
30    costs that may be incurred by a local agency or school district  
31    because a local agency or school district has the authority to levy  
32    service charges, fees, or assessments sufficient to pay for the  
33    program or level of service mandated by this act or because costs  
34    that may be incurred by a local agency or school district will be  
35    incurred because this act creates a new crime or infraction,  
36    eliminates a crime or infraction, or changes the penalty for a crime  
37    or infraction, within the meaning of Section 17556 of the  
38    Government Code, or changes the definition of a crime within the  
39    meaning of Section 6 of Article XIII B of the California  
40    Constitution.

1     However, if the Commission on State Mandates determines that  
2     this act contains other costs mandated by the state, reimbursement  
3     to local agencies and school districts for those costs shall be made  
4     pursuant to Part 7 (commencing with Section 17500) of Division  
5     4 of Title 2 of the Government Code.

O